UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/49/914
6 June 1995

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 105

REVIEW OF THE EFFICIENCY OF THE ADMINISTRATIVE AND FINANCIAL FUNCTIONING OF THE UNITED NATIONS

Note by the Secretary-General

Pursuant to General Assembly resolution 48/218 B of 29 July 1994, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the audit of the United Nations Protection Force (UNPROFOR) personnel pilot project.

95-16752 (E) 090695 130695

/...

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 4	3
II.	OBJECTIVES AND SCOPE OF THE REVIEW	5 - 6	4
III.	SUMMARY OF FINDINGS	7 - 32	4
IV.	CONCLUSIONS	33 - 35	10
V.	COMMENTS OF THE DEPARTMENT OF PEACE-KEEPING OPERATIONS AND EVALUATION BY THE OFFICE OF INTERNAL OVERSIGHT SERVICES	36 - 43	11

Annex

REPORT OF THE OFFICE OF INTERNAL OVERSIGHT SERVICES ON THE AUDIT OF THE UNITED NATIONS PROTECTION FORCE (UNPROFOR) PERSONNEL PILOT PROJECT

I. INTRODUCTION

1. The United Nations Protection Force (UNPROFOR) personnel pilot project began in November 1992 as an expeditious way of meeting UNPROFOR's immediate personnel requirements. Under this project, UNPROFOR has entered into contracts with a number of companies (currently six) to provide the services of international contractual personnel. Designated as international service agencies, these companies respond to requests from UNPROFOR by identifying and proposing suitable candidates, and employing successful candidates as their own personnel while they provide services to UNPROFOR. UNPROFOR, in turn, reimburses the international service agencies based on monthly invoices in respect of the direct costs of the contractual personnel (salaries, insurance, recruitment fee, travel and mission incentive payment) and a management fee that is based on these costs. UNPROFOR also provides housing, meals and certain other services to the contractual personnel. 1/

2. The Secretary-General provided information about the implementation of the UNPROFOR pilot project in his report to the General Assembly on the use of civilian personnel in peace-keeping operations (A/48/707) and again in his report to the Assembly on the effective planning, budgeting and administration of peace-keeping operations (A/48/945). During deliberations at the forty-ninth session of the General Assembly on the subject of international contactual personnel, a number of concerns were raised by the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and, in its report dated 18 November 1994 (A/49/664), ACABQ recommended that:

> "... the implementation of the pilot project on the use of international contractual personnel ... should not be extended beyond UNPROFOR and further recruitment of international contractual personnel should be suspended, pending a thorough and independent investigation and evaluation by the Office of Internal Oversight Services."

3. The Fifth Committee endorsed this recommendation, with the understanding that it would be applied with the necessary flexibility to ensure that UNPROFOR operational requirements were met, and the General Assembly subsequently adopted resolution 49/228 of 2 February 1995, requesting that the results of the study be submitted to the General Assembly in order to enable it to take a decision on the issue at the resumed forty-ninth session.

4. When the resolution was adopted, an audit of the UNPROFOR pilot project by the Audit and Management Consulting Division of the Office of Internal Oversight Services was already under way. A report of the audit was sent to the Under-Secretary-General for Peace-keeping Operations on 13 March 1995 and a summary of the report's main findings and conclusions are presented below.

II. OBJECTIVES AND SCOPE OF THE REVIEW

5. In order to provide the legislative bodies and management with a risk assessment of the pilot project and an independent evaluation of the project's implementation, the review had the following objectives:

(a) To assess whether the procurement procedures used by UNPROFOR for the solicitation and selection of international service agencies complied with United Nations procurement rules and were conducive to obtaining optimum value for money;

(b) To evaluate the legal status and financial capability of the six international service agencies currently holding contracts with UNPROFOR and to ascertain whether the contractual arrangements between UNPROFOR, the international service agencies and the individual contractual personnel adequately safeguard the interests of the Organization;

(c) To assess the operational efficiency and effectiveness of the procedures implemented by UNPROFOR to manage the selection, deployment and use of contractual personnel;

(d) To determine whether the original aims of the project have been met.

6. The audit was conducted at UNPROFOR headquarters in Zagreb and at United Nations Headquarters in New York and covered (a) the initial procurement process and major subsequent procurement actions; (b) administrative procedures for managing the project, including the determination of contractual personnel requirements, classification of positions and selection of contractual personnel candidates, deployment and supervision of the personnel; (c) policies and procedures for administering the contracts, including determination of billable costs, checking of invoices and monitoring of performance and compliance with contractual requirements; and (d) recent developments in the management of the project, including the change to team-based deployment.

III. SUMMARY OF FINDINGS

7. In the opinion of the Office of Internal Oversight Services, the deployment of contractual personnel using the approach established under the pilot project is a viable means of meeting UNPROFOR's support needs. While the pilot project has had a number of problems, the Office believes that this approach should be considered an alternative method of supporting other peace-keeping operations when sufficient numbers of qualified support personnel cannot be recruited for the mission in a timely and cost-effective manner through the traditional recruitment means. However, this modality should be used only in situations where the mission's civilian staff and systems essential for the management of these personnel are in place.

8. This review examined various aspects of the pilot project's management and administration and how the processes evolved over time. It also addressed the need for policy changes in respect of the existing contractual arrangements and made relevant recommendations to modify certain policies and procedures and to

correct those project deficiencies identified by the review. Major review findings were as follows.

A. Personnel policy issues

9. The UNPROFOR pilot project represented a significant departure from the traditional methods of deploying personnel to peace-keeping missions. In the opinion of the Office of Internal Oversight Services, however, the Field Administration and Logistics Division of the Department of Peace-keeping Operations did not provide sufficient policy guidance and oversight of the project during the course of its initial development and implementation. The lack of appropriate involvement early on in the project on the part of the Department of Peace-keeping Operations and the Offices of Human Resources Management and Legal Affairs removed a necessary check and balance and, consequently, a number of legal and personnel issues requiring policy clarification became apparent as the pilot project evolved.

10. The early phases of the pilot project resulted in the deployment of contractual personnel from a relatively narrow range of countries. As concerns over the geographical mix of contractual personnel became known, UNPROFOR encouraged the international service agencies to broaden the geographical areas of recruitment and authorized an increase in the maximum allowable recruitment fees to reflect the higher costs involved. Moreover, in August 1994, UNPROFOR placed an embargo on the deployment of new contractual personnel from certain "overrepresented" countries. As a result of these actions, the geographical representation in the pilot project has broadened over a short period of time. However, a question remains as to whether the principle of geographical representation is relevant and appropriate to the deployment of contractual personnel. In view of the significant monetary impact such requirements would have on peace-keeping, the advantages and disadvantages of applying the principle of geographical representation should be thoroughly examined before deciding whether to extend geographical representation requirements to UNPROFOR and other peace-keeping operations.

11. Differences in the remuneration of contractual personnel have raised concerns that there has been a breach of the principle of equal pay for equal work. These differences, however, derive from the fact that the international service agency contractors recruit their employees from countries having vastly differing economies and labour markets. UNPROFOR has taken several measures in an attempt to balance the remuneration levels by introducing a minimum salary level and mission incentive payments. It is noted, however, that the introduction of policies intended to equalize the salaries of contractual personnel also work against another objective of the Organization, which is to obtain maximum value for money. Further, if the pilot project were clearly defined and administered as a procurement exercise and contracts were strictly awarded to the lowest acceptable bidders (within the UNPROFOR minimum salary limitations), the Office of Internal Oversight Services believes that the issue of equal pay for equal work would not appear to be a relevant consideration.

12. Contractual personnel were intended to fulfil support functions that required technical, mechanical and trades and crafts-related skills, but they

have also been deployed to managerial and administrative positions in nearly all sections and levels of the UNPROFOR Division of Management and Administration. Although the actual extent of deployment of contractual personnel in core positions within the pilot project has not been defined, many cases were noted in which contractual personnel occupied posts formally designated for United Nations staff members. The Department of Peace-keeping Operations had undertaken to fill these posts with United Nations staff members; however, in view of the impending changes in UNPROFOR's mandate and the possible implications for restructuring of the mission, these efforts were put on hold.

B. Implementation and administration of the pilot project

13. Controls over the deployment of contractual personnel have not been as stringent as those normally exercised over the deployment of United Nations staff members. Controls exist in terms of total number and cost of international contractual personnel, as approved in the budget. Within these ceilings, however, UNPROFOR has been able to classify and deploy the contractual personnel in whatever positions and at whatever pay levels it considered appropriate. While these arrangements have provided UNPROFOR with a great deal of flexibility, the absence of past experience and effective controls over the deployment of contractual personnel has eliminated a necessary check and balance over the mission's civilian staffing requirements.

14. ACABQ recommended that the total number of international contractual personnel in UNPROFOR for the period from 1 October 1994 to 31 March 1995 should not exceed 1,500 and that further recruitment of such personnel should be suspended. Based upon an analysis of contractual personnel departures and positions awarded through 15 February 1995, the Office of Internal Oversight Services is of the opinion that UNPROFOR has made all reasonable efforts to implement the ACABQ recommendations, while allowing for the recruitment of those additional contractual personnel needed to meet its immediate operational requirements.

15. The review indicated that UNPROFOR had deployed international contractual personnel in positions that could have been filled with locally recruited staff and/or United Nations Volunteers (UNVs) at lower costs to the Organization. It was noted, for example, that UNPROFOR's proposed staffing table for the Information Technology Services Section in Zagreb called for 55 international contractual personnel but only 10 local staff, despite the fact that most of these personnel are not required to travel outside Zagreb and the local labour pool for technically qualified staff is considered to be of extremely high quality. UNPROFOR's vehicle maintenance operations in Split and Zagreb similarly employed a high ratio of international contractual personnel to local staff. Subsequent analysis during the review by the Office of Internal Oversight Services of UNPROFOR's management structure, although still preliminary, indicates that a large number of international contractual personnel could be replaced by local recruited staff. This would have a positive political impact for the Organization and result in substantial savings as well. The above conditions also support the need for additional checks and balances over the deployment of contractual personnel.

16. To date, UNPROFOR's contractual personnel resource requirements have been determined on an individual basis, using a job classification system designed by UNPROFOR to assist in budgetary planning and in order to help to define the levels of contractual personnel being requested from the international service agency contractors. The audit found that, in practice, problems have been experienced in ensuring consistency of the classification process and, furthermore, questioned the need for UNPROFOR to classify contractual personnel. The Office of Internal Oversight Services is of the opinion that UNPROFOR grade classifications should be phased out, and that the remuneration levels of contractual personnel should be determined by competitive bidding for the contractual personnel services to be delivered.

17. UNPROFOR has routinely renewed the contracts for contractual personnel upon the satisfactory completion of initial one-year contracts. For practical reasons, such contract extensions were not subject to bidding. However, no review was made by UNPROFOR to determine whether these contract renewals were being charged at rates that are competitive with recent appointments of new personnel in similar positions. While it is acknowledged that there is a value in maintaining continuity of contractual personnel who perform well, the Office of Internal Oversight Services nevertheless believes there should be a check to ensure that UNPROFOR is not overpaying for these contractual personnel services. In addition, UNPROFOR has used wide discretionary authority in upgrading the positions of contractual personnel, a practice with which the Office of Internal Oversight Services disagrees.

18. UNPROFOR has developed procedures for monitoring the performance of those international service agency contractors participating in the pilot project. However, several weaknesses were noted in the accuracy and completeness of information provided in support of the international service agencies' billings, and in the checks carried out by UNPROFOR prior to authorization of invoices for payment. Since these weaknesses were brought to its attention, UNPROFOR has developed formal procedures to provide for appropriate checks of international service agency invoices prior to their authorization for payment.

19. UNPROFOR has paid more for insurance than it should have under the terms of its contracts. As a result of the audit, one international service agency has refunded US$ 207,105 that was paid to the company for insurance charges in respect of high-risk insurance coverage provided during calendar year 1994. This refund was made because the actual cost of the insurance was less than the amounts charged to UNPROFOR. The international service agency had also made provisions for a self-insurance fund for employer's liability claims. These provisions amounted to US$ 330,870 as at 31 October 1994 and were improperly charged to UNPROFOR as direct insurance costs. The audit also found indications that other international service agencies may have charged UNPROFOR amounts in excess of actual insurance costs, but since the contracts did not specify that the insurance charges were to be based on the actual direct costs incurred, UNPROFOR is still reviewing whether there is a basis to recover the US$ 330,870 self-insurance provision and any further insurance payments to the international service agencies in excess of direct costs.

20. As established by the audit and pointed out by representatives of the international service agencies, there was a lack of written policies and

procedures governing the project's implementation, and the ground rules applied to the international service agencies' participation were changed too frequently, thereby impairing the consistency of the project. In addition, insufficient information was provided to the international service agencies concerning the forward planning of contractual personnel requirements and the time provided for the international service agencies to respond to requests for offers was too brief.

21. In mid-1994, UNPROFOR changed the pilot project's emphasis from the contracting of individual personnel to the contracting of field teams. Although there are undoubtedly areas of UNPROFOR operations in which this team approach could be effectively applied, these are also areas where service contracts are potentially viable. The Office of Internal Oversight Services believes that UNPROFOR should gradually convert these areas to contracts for services. Since there are also many contractual personnel deployed in UNPROFOR positions that would not appear to be suitable for contracting out as services, UNPROFOR should make a detailed review of these positions and, wherever found feasible and practical, should replace international contractual personnel with locally recruited staff and/or UNVs. UNPROFOR should also consider replacing selected international contractual personnel with contracts for personnel services, as this modality was recently introduced into practice for engineering support services at other peace-keeping missions.

C. Procurement aspects of the pilot project

22. The documentation trail for the procurement process was inadequate, particularly at the initial stage of the pilot project. The pre-selection process was conducted informally and no record was made of how the original vendors were identified and how the early stages of negotiations were conducted. There was also a lack of proper segregation of duties in the procurement process. The initial procurement actions were undertaken by the Office of the Chief Administrative Officer, without adequate involvement of the Procurement Section. UNPROFOR pointed out the expedient, rather than planned, birth of the pilot project and the historical circumstances that created a dire need for additional support.

23. Inadequate financial checks were performed for the international service agency contractors. In fact, some of the international service agencies providing personnel to UNPROFOR had very limited assets as they were newly formed affiliates and subsidiaries of other companies. Any credible review of the financial viability of these new companies, which lacked a previous performance history, would have disqualified them from doing business with the United Nations unless a performance bond or additional financial guarantees could be obtained. This situation highlights a weakness in the pre-selection procedures applied for the approved vendors. It was further noted that the United Nations Purchase and Transportation Service Manual has no formal requirement to carry out financial checks but, rather, treats the conduct and extent of any financial viability checks as discretionary.

24. Several weaknesses and omissions were noted in the contract documents between UNPROFOR and the international service agencies. For example, the

contracts did not contain clauses allowing United Nations audits and inspections of contractor books and records, or specify the minimum levels of insurance coverages to be provided to the international contractual personnel. Moreover, the contracts did not specify that the travel and insurance charges by the international service agencies were to be based on the direct costs incurred. UNPROFOR intends to address these shortcomings when it renegotiates or rebids the current contracts with the international service agencies.

D. Status of legal issues

25. The report of the Secretary-General on the use of civilian personnel in peace-keeping operations (A/48/707) recognized that, since international contractual personnel are employees of their respective international service agencies and, hence, are not United Nations staff members, the existing legal framework applicable to United Nations staff did not cover their deployment. Suggesting the need for legal protection for contractual personnel, the Secretary-General specified that:

> "this protection would extend to immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity, as well as entitlement to repatriation in times of international crisis." (A/48/707, para. 36)

26. In the same report, the Secretary-General also requested endorsement by the General Assembly for his plans to resort to contractual arrangements as an additional source of civilian personnel in peace-keeping missions and stated that this legal protection would be expressly stated and included in the status of forces agreements concluded between the United Nations and future host Governments.

27. Since contractual personnel are not supposed to perform core functions, in the opinion of the Office of Internal Oversight Services, it is difficult to envision situations in which these employees would be given authority for official acts that would require protection from legal process. In view of this eventuality and until such time as the issue of legal protection is addressed by the General Assembly, the Administration should be mindful that it does not assign to contractual personnel the responsibility for any official acts which would require such protection. However, if indeed there have been actual cases in which the protection of international contractual personnel from legal process was found to be necessary, these cases should be presented for review.

28. UNPROFOR has required the international service agency contractors to purchase insurance for their personnel and indemnify the United Nations against claims arising from or related to the performance of the contract. This insurance, together with financial guarantees, was foreseen to protect the Organization against the risk of liability for third-party claims. In practice, however, financial guarantees were not obtained from the international service agencies. Rather, reliance was placed on the adequacy of insurance policies taken out by the international service agencies. A detailed review of the insurance policies, however, revealed several areas that carried potential risk exposure for the Organization.

29. A review of the legal implications of the existing business relationship between UNPROFOR and the individual international contractual personnel was carried out by the Office of Legal Affairs in June 1994. The review pointed out that, despite the fact that the current contracts with the international service agencies clearly define them as the employers of the international contractual personnel and the personnel sign individual employment contracts with the international service agencies, there was a risk that current procedures for managing the work of international contractual personnel could lead to a legal interpretation of the relationship as one of the United Nations being considered a "joint employer" (the other joint employer being the relevant international service agency contractor).

30. For the risk of liability to be minimized, if not totally eliminated, a complete move to contracting of services would have been necessary, and this was not considered practical in meeting the support needs of UNPROFOR. In the opinion of the Office of Internal Oversight Services, an alternative approach to managing this risk would be to accept the potential for liability and to obtain appropriate insurance coverage that would be adequate to cover any resultant claims. Preliminary inquiries indicate that such insurance could be arranged, and that the cost of this alternative risk-management approach could be modest, while providing the certainty of protection from legal liability.

31. With regard to the scope of insurance coverage, the Office of Internal Oversight Services noted that some international service agencies provide a full medical insurance, covering treatment (including hospitalization) for both sickness and accidental injury. Others, however, provided only limited medical coverage to their employees under terms of group travel insurance. Such policies generally cover only emergency medical treatment for accidental bodily injury or illness, and coverage under certain of the policies ends upon the employee's return to their country of domicile. Moreover, while all of the international service agencies carried temporary disability insurance for injuries sustained in the course of employment, the terms of the coverage differed substantially from company to company.

32. There are several potentially significant implications of the above. Firstly, in the case of any serious accidents, inadequate insurance coverage of contractual personnel could have a negative impact on the United Nations image. Also, in terms of the potential liability to the Organization, if the international service agencies have not secured adequate insurance coverage, there is a risk that third parties and/or international contractual personnel may pursue claims against the United Nations (in addition to making claims against the international service agencies) in order to obtain added compensation for any damages sustained.

IV. CONCLUSIONS

33. The UNPROFOR personnel pilot project has now been in operation for over two years, but the project has evolved slowly in terms of implementing the management policies and administrative procedures required for the deployment of these personnel. A number of concerns have also been raised about the policy aspects of the project.

34. On the other hand, there have been several major benefits derived from the pilot project. Most notably, the project has provided UNPROFOR with access to a range of skills and personnel that would not have been available under the existing means of recruitment, and has educated the international service agencies and created a pool of contractual personnel that can be drawn upon in other emergency situations. Furthermore, it has offered increased flexibility in terms of rapid deployment in all mission areas and the ability to terminate the services on short notice. Finally, the pilot project has proven to be a cost-effective means of meeting UNPROFOR's international personnel support requirements and, for a reasonable management fee paid to the international service agencies, the United Nations can save on costs that would have been incurred if United Nations international staff were deployed instead.

35. The Office of Internal Oversight Services believes that the UNPROFOR pilot project's approach is a viable alternative method of supporting other peace-keeping operations, where circumstances clearly warrant this approach. These circumstances might include, for example, cases where the local labour market is limited or where the prevailing political conditions require the use of international personnel. However, the scope of such a programme should be closely monitored to ensure that contractual personnel are deployed only in those situations where staffing needs cannot be filled through the existing United Nations staff recruitment mechanisms, or by contracting for the services required.

V. COMMENTS OF THE DEPARTMENT OF PEACE-KEEPING OPERATIONS AND EVALUATION BY THE OFFICE OF INTERNAL OVERSIGHT SERVICES

36. In a reply to the report dated 27 April 1995, the Under-Secretary-General for Peace-keeping Operations provided comments on policy matters affecting the nature and direction of the UNPROFOR pilot project and summarized additional detailed comments from the UNPROFOR administration addressing specific audit recommendations. In this reply, the Department generally agreed with the findings and recommendations of the report and welcomed the basic finding that the deployment of contractual personnel is a viable means of meeting UNPROFOR's support needs and could be considered as an alternative method of supporting other peace-keeping operations.

A. Actions taken by the Department of Peace-keeping Operations

37. In response to the report's recommendations, the Under-Secretary-General stated that UNPROFOR has now been given the following policy directives in respect of the pilot project:

(a) There should be no expansion of the project beyond the ceiling recommended by ACABQ and endorsed by the Fifth Committee, with the understanding that it should be applied with the necessary flexibility to ensure that current operational requirements are met, both in UNPROFOR and in other missions;

(b) UNPROFOR is to review henceforth all areas of operation and staffing tables to identify (i) those that are suitable for contracting out as services

and gradually convert these operations to contracts for services within those constraints identified by UNPROFOR; and (ii) those that can be operated by other sources of personnel including in particular, local staff and UNVs;

(c) Within the ceiling as described above, international contractual personnel may be engaged only when it has been determined that other sources of personnel are insufficient to provide the personnel needed. This determination should be made by a special review board established in UNPROFOR and upon the advice and consent of the Department of Peace-keeping Operations;

(d) The engagement of international contractual personnel should be limited, to the extent possible, to technical and trade areas and such personnel cannot be engaged in core or key functions. The latter include those that involve executive capacity, certifying authority, supervisory authority over United Nations staff members, experience in, and knowledge of, United Nations rules and regulations and matters requiring confidentiality. The identification and allocation of posts is thus directly linked to the need for constant monitoring and updating the staffing tables;

(e) In cases where it has been identified that international contractual personnel have been performing key functions, and where it has been further determined by a review panel that they have performed them well and have the relevant qualifications to perform the said functions, UNPROFOR will recommend their conversion to mission appointee status.

38. Moreover, the Under-Secretary-General indicated that the extension of the UNPROFOR pilot project to other peace-keeping operations is likely to be required only in missions of similar magnitude. In most other situations, traditional means of recruitment as well as the use of service contracts are likely to be sufficient.

B. Areas of non-concurrence and evaluation by the Office of Internal Oversight Services

39. The Under-Secretary-General pointed out that, as indicated in document A/48/707, the Department of Peace-keeping Operations had provided general policy guidelines to UNPROFOR on the status, functional limitations, command and control, selection process and legal protection of international contractual personnel. Pursuant to these guidelines, the Field Administration and Logistics Division proceeded to review the pilot project in March 1994, and this review generated a request for greater involvement of the Office of Legal Affairs in the refinement of contractual arrangements. While it is agreed that the UNPROFOR pilot project had developed in response to operational exigencies, the Office of Internal Oversight Services still believes that many of the problems identified by the audit could have been averted had greater attention been focused on the project's initial development and implementation. The Office recommends that the Field Administration and Logistics Division closely direct and monitor the continuing evolution of the project to ensure that it is implemented in an efficient and cost-effective manner.

40. With regard to the recommendation of the Office that the classification system for international contractual personnel be phased out (see paras. 16 and 17), UNPROFOR noted that that could not be done in isolation. A decision would have to be taken in the context of reorganization of the mission and in light of legal considerations, since the grade classification system was used as the basis for the December 1993 tendering. Therefore, according to UNPROFOR, the proposed elimination of the classification system would seem to necessitate a new procurement exercise. While the above may be true, the Office of Internal Oversight Services continues to believe that UNPROFOR's classification system should be phased out over time and should not be used as part of any future applications of the pilot project. Continuation of the current system of classification could create an impression that there may be an employer-employee relationship, and also might be viewed as a departure from the standard approach to procurement. Moreover, the Office does not believe that UNPROFOR is qualified to classify these contractual personnel positions properly.

41. The Under-Secretary-General observed that the pilot project has not benefited from the full protection that could be given it as a pure procurement process, nor does it give contractual personnel those benefits that would be afforded in an employer-employee relationship and indicated that, while the audit report identifies the predicament, in places it recommends that the pilot project be run as a procurement process and at others it recommends changes that are inconsistent with a procurement exercise. The Office of Internal Oversight Services responds that the above dilemma is a result of the nature of the pilot project (a procurement exercise for the provision of personnel services) and submits that the pilot project should be more clearly defined as a procurement exercise. Thus, it was recommended that UNPROFOR should gradually convert existing contracts for individual contractual personnel to service contracts and to take additional steps to review positions now filled by international contractual personnel with a view to reducing costs to the Organization.

42. In respect of the status of legal issues, the Under-Secretary-General noted that legal protection is accorded to official acts of United Nations staff members that are not to be confused with core functions, and all acts performed whilst in the performance of their duties are official acts. For this reason, the Secretary-General suggested that such protection be extended to international contractual personnel. The Office of Internal Oversight Services is of the opinion that need for the extension of such protection to international contractual personnel in the pilot project has not been demonstrated. However, if there have been actual cases in which the protection of international contractual personnel from legal process was found to be necessary, these cases should be presented to the General Assembly for its review.

43. The Department of Peace-keeping Operations has agreed to work closely with the Office of Internal Oversight Services in implementing the report's recommendations in order to resolve any outstanding differences and to find a common ground that will best serve the interests of the Organization.

(Signed) Karl-Th. PASCHKE
Under-Secretary-General for
Internal Oversight Services

Notes

1/ UNPROFOR intends to discontinue the direct provisioning of food and accommodation to contractual personnel and for the international service agencies to assume this responsibility upon renegotiation or rebidding of current contracts.

UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/49/915
S/1995/463
6 June 1995

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 39
THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Fiftieth year

Letter dated 6 June 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General

I have the honour to present to you the attached statement, dated today, by the former mayors of Sarajevo (see annex).

May I ask for your kind assistance in circulating the present letter and its annex as a document of the General Assembly, under agenda item 39, and of the Security Council.

(Signed) Ivan Z. MISIĆ
Chargé d'affaires a.i.

ANNEX

Statement dated 6 June 1995 by the former mayors of Sarajevo

Although our experience with the Karadžić Serbs prevents us from being surprised at their most recent terror tactics directed at the United Nations Protection Force (UNPROFOR), we join the entire world in its revulsion and condemnation at their taking as hostages UNPROFOR peace-keepers and unarmed United Nations monitors. We applaud the concern of the international community and its decision to help and rescue the hostages without making concessions to the terrorists.

Being concerned for the welfare of all peace-loving peoples, we believe we have the right to request from the international community that it show the same concern for the more than 500,000 Karadžić Serb-held captives in the besieged population centres of Sarajevo, Tuzla, Goražde, Srebrenica, Bihać and Žepa, Security Council-declared "safe areas", which are today lacking food, water, medicines, electricity and other necessities. While the Karadžić Serbs have threatened to kill one international hostage for every bomb dropped by NATO, they do not have any conditions for killing the Bosnians - many Bosnians are killed every day and many more are wounded.

We request that the international community show the same concern for all captives and victims in accordance with the relevant principles and convertions.

The former mayors of Sarajevo:

Dane OLBINA
Braco KOSOVAC
Lazo MATERIC
Vaso RADIC
Dzemaludin MUMINAGIC
Dane MALJKOVIC
Salko SELIMOVIC
Juraj MARTINOVIC

UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/49/916
S/1995/468
9 June 1995

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 51
QUESTION OF CYPRUS

SECURITY COUNCIL
Fiftieth year

Letter dated 5 June 1995 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a letter, dated 5 June 1995, addressed to you by His Excellency Mr. Osman Ertuğ, representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the forty-ninth session of the General Assembly, under agenda item 51, and of the Security Council.

(Signed) İnal BATU
Ambassador
Permanent Representative

95-17308 (E) 090695 120695

ANNEX

Letter dated 5 June 1995 from Mr. Osman Ertuğ
addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letter dated 26 May 1995 addressed to you by the Greek Cypriot representative (A/49/905-S/1995/427), which contains allegations regarding "violations of the airspace of the Republic of Cyprus".

In response to these oft-repeated allegations of the Greek Cypriot side, I wish to reiterate, once more, that the airspace over Northern Cyprus is under the control and jurisdiction of the Turkish Republic of Northern Cyprus, and the Greek Cypriot usurpers of the seat of government have no right of say over who will use this airspace and how, with the full knowledge and consent of the State. Complaints such as those contained in the said letter are, therefore, designed purely for propaganda purposes and in order to divert attention from the recent augmentation of the militarization efforts in southern Cyprus and other ominous developments.

Reports from the South indicate that, as part of its continuing build-up of arms and armed forces in the South, the Greek Cypriot administration is purchasing, in the first instance, a total of 156 armoured vehicles, including 50 AMX-30 French-made tanks, from Greece. In the meantime, the first batch of Greek mainland soldiers who will serve in the Greek Cypriot "National Guard" as professionals have arrived in South Cyprus and are reported to be undergoing induction procedures.

As is known, the Greek Cypriot administration is committed to strengthening its armoured units by bringing them to a level that will include 500 tanks over the next few years, as well as raising the active strength of the "National Guard" by 5,000 professional soldiers, mostly from Greece.

At the recent meeting in Athens between the Greek Prime Minister, Mr. Andreas Papandreou, and the Greek Cypriot "National Council", which was held on 4 May 1995, the Greek and Greek Cypriot front has, among other things, re-committed itself to the so-called "joint defence doctrine" as well as joint decision-making on all matters relating to the Cyprus question. This ominous development, which speaks for itself, while confirming the collusion between Greece and South Cyprus as far as the Cyprus issue is concerned, also explains the lack of progress in the current negotiations for a solution in the island.

I shall be grateful if the present letter could be circulated as a document of the forty-ninth session of the General Assembly, under agenda item 51, and of the Security Council.

(Signed) Osman ERTUĞ
Representative
Turkish Republic of Northern Cyprus

UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/49/917
12 June 1995
ENGLISH
ORIGINAL: ARABIC

Forty-ninth session
Agenda item 39

THE SITUATION IN BOSNIA AND HERZEGOVINA

Letter dated 9 June 1995 from the Acting Permanent Representative of Saudi Arabia to the United Nations addressed to the Secretary-General

The savage attack carried out by Serb forces against civilians in the town of Tuzla and other safe areas of Bosnia and Herzegovina, and the terrorist attack, in an area outside the Croatian no-fly zone, on the aircraft transporting the Minister for Foreign Affairs of the Republic of Bosnia and Herzegovina, which resulted in his death, constitute flagrant and serious violations of the sanctity of civilians and innocent people in a State which continues to suffer aggression by the Bosnian Serbs. Furthermore, the continued detention of United Nations troops as hostages, and the endangering of their lives, demonstrate contempt for the most basic principles and understanding of international law. The Government of the Kingdom of Saudi Arabia criticizes these actions and requests that the necessary deterrent measures should be taken to maintain peace and the security of civilians and United Nations troops in Bosnia and Herzegovina.

(Signed) Gaafar ALLAGANY
Acting Permanent Representative

95-17516 (E) 120695 120695 130695

UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/49/918
S/1995/477
13 June 1995
ENGLISH
ORIGINAL: FRENCH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 39
THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Fiftieth year

Identical letters dated 12 June 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Morocco to the United Nations addressed to the Secretary-General and to the President of the Security Council

I have the honour to transmit to you herewith the Declaration adopted on 9 June 1995 by the Working Group on Bosnia and Herzegovina of the Organization of the Islamic Conference (OIC), and to request that it be issued as an official document of the forty-ninth session of the United Nations General Assembly, under agenda item 39, and of the Security Council.

(Signed) El Hassane ZAHID
Chargé d'affaires a.i.
Permanent Mission of Morocco
to the United Nations

95-17623 (E) 130695 130695 140695

/...

Annex

[Original: English]

Statement by the Working Group on Bosnia and Herzegovina of the Organization of the Islamic Conference dated 9 June 1995

The Organization of the Islamic Conference (OIC) Working Group on Bosnia and Herzegovina, composed of the OIC Contact Group on the Republic of Bosnia and Herzegovina and the United Nations Protection Force (UNPROFOR) troop contributors, has carefully examined the report of the Secretary-General concerning the future role of UNPROFOR in document S/1995/444. The report has been a useful instrument in contributing to the dialogue on UNPROFOR's future in the Republic of Bosnia and Herzegovina, and has assisted the Working Group in making the following observations.

The current situation in the Republic of Bosnia and Herzegovina, both for its civilian population and the UNPROFOR mission, has indeed become intolerable. The intensified shelling by the Pale Serbs of the safe areas, as grotesquely manifested in the terrorist attack against Tuzla, killing 71 teenagers and other young people; the continuing obstruction by the Pale Serbs of humanitarian outlets, whether they be land routes or the Sarajevo airport; the continued perpetration of ethnic cleansing in the Banja Luka region and elsewhere by the Pale Serbs; the deployment of surface-to-air missiles by the Pale Serbs throughout the Republic of Bosnia and Herzegovina; and the recently resurrected practice of the Pale Serbs in taking United Nations personnel as hostages and detainees, as well as an increase in their targeting of United Nations personnel have brought to the forefront the necessity of reviewing the means by which UNPROFOR can best serve the people of Bosnia and Herzegovina and at minimal risk to itself.

The Working Group has taken note of the Secretary-General's four options on UNPROFOR's future and, in that context, concurs with the Secretary-General's statement contained in paragraph 80 of the report that the United Nations "must not lose sight of three interconnected objectives, which represent the very essence of the United Nations: the quest for peace, the protection of human life and the rejection of a culture of death" as well as the preservation of the territorial integrity and political unity of the Republic of Bosnia and Herzegovina. The Working Group firmly believes that it was with these objectives in mind that the Security Council initially deployed UNPROFOR in the Republic of Bosnia and Herzegovina and developed the current mandate under which UNPROFOR operates.

In the context of the above objectives, it is the view of the Working Group that the current mandate is unambiguous and UNPROFOR should be provided with the required means for the full implementation of the mandate. As for the question on whether UNPROFOR is a peace-keeping or peace-enforcement operation, the Working Group sees it as obvious that there is no peace either to keep or for that matter to enforce, as the Pale Serbs have yet to accept the five-nation Contact Group peace plan. Rather, UNPROFOR is an operation, as indicated by the

Secretary-General in paragraph 66 of his report, that has certain purposes to fulfil, most notably the alleviation of the conflict's consequences and the mitigation of the conflict itself. The current mandate could be best described as a developed mandate, that is to say, a mandate created in reaction to the unprecedented scenarios in which a United Nations mission had not found itself before. These unprecedented scenarios primarily resulted from the fact that one element, namely the Pale Serbs, were systematically and as policy directing military actions against a civilian population. This policy included the systematic obstruction of humanitarian aid to the besieged and threatened populations; the systematic holding of civilians in concentration and detention camps; and the systematic shelling of civilian population centres. The Security Council, while perhaps initially deploying UNPROFOR under traditional peace-keeping rules of engagement, was forced to mandate UNPROFOR with Chapter VII resolutions in reaction to the outrages perpetrated by the Pale Serbs. Subsequently, resolutions such as 776 (1992) and the safe area resolutions, 819 (1993), 824 (1993) and 836 (1993), were adopted.

The Working Group agrees with the Secretary-General's assessment that UNPROFOR's success depends upon the attitude of the "parties". However, keeping in mind the previous paragraph, the Working Group cannot agree with the numerous references in the report that tend to equate the legitimate Government of the Republic of Bosnia and Herzegovina and the Pale Serbs, whose leaders are now being investigated by the International War Crimes Tribunal. Two examples in particular warrant comment. In paragraph 28, the Secretary-General describes the denial of humanitarian assistance "to populations that the party concerned is trying to drive from their homes" as a difficulty impeding UNPROFOR's work. Nowhere is it stated that the Government of the Republic of Bosnia and Herzegovina has as policy or systematically, driven populations from their homes. On the contrary, the Government of the Republic of Bosnia and Herzegovina has successfully effectuated a policy within its armed forces compelling them to respect humanitarian law fully; when troops have deviated from this policy, the Government has aggressively pursued the perpetrators. For this highest dedication to humanitarian law, the Government of the Republic of Bosnia and Herzegovina deserves at least acknowledgement, and in no way deserves equation with those now under investigation at The Hague. In paragraph 65, the Secretary-General states that "both of the parties are determined to prosecute the war". The Government of the Republic of Bosnia and Herzegovina is the "party" that has accepted the five-nation Contact Group peace plan as of 14 July 1994, 11 months ago, and, despite seeing its population subject to intensified ethnic cleansing, shelling of population centres and many brought to the brink of starvation (i.e. Bihac), still maintains its commitment to that plan and has even engaged itself diplomatically with the Belgrade regime that originally prosecuted the ethnic cleansing campaign, in order to facilitate a peaceful solution.

As for the UNPROFOR mandate, the Working Group reasserts that there are no ambiguities, including in the context of Chapter VII and enforcement. In paragraph 26 of his report, the Secretary-General recalls that "self-defence was deemed to include situations in which armed persons attempted by force to prevent United Nations troops from carrying out their mandate". This was defined in the context of the language "all means necessary" contained in resolution 770 (1992). This permitted UNPROFOR to use force to facilitate

delivery of humanitarian assistance. While it is obviously preferable that assistance be delivered by means of cooperation rather than force, cooperation cannot be exclusively counted on from the Pale Serbs, who, according to the reports of the Special Rapporteur and others, reaffirm that denial of assistance to civilian populations is in concert with their policy of ethnic cleansing. Where negotiations fail to extract cooperation, other measures must be undertaken. These measures can include either the use of force or airdrops or other means not yet explored. Furthermore, "all necessary measures" is language contained in resolution 816 (1993), and was effectuated against Serbian aircraft (by the North Atlantic Treaty Organization (NATO) as an extension of UNPROFOR) in April of 1994, near Banja Luka. It is only logical that the language used in resolutions 770 (1992) and 816 (1993) be consistently applied, of course taking into account all risk factors. As for the first factor described in paragraph 29, measures can be undertaken to reduce the vulnerability of United Nations personnel should force be necessary, and as for the second, while UNPROFOR may not have the mandate to pre-empt with force the blockage of aid, it certainly does have the mandate to confront blockage under the Secretary-General's definition of self-defence as described in paragraph 26.

With regard to the safe areas, again the Working Group believes that there is no ambiguity. Resolution 836 (1993), in language and as viewed by the Security Council in the debate upon the adoption of resolution 836 (1993), permits UNPROFOR to use force to protect the safe areas and the civilians in them. Furthermore, the Working Group sees no inherent deficiencies in the safe areas regimes, other than the inadequate number of troops in the areas and their lack of equipment therein. The mandate is available for UNPROFOR, and by extension NATO, to neutralize weapons violating the safe areas. As for reprisals against United Nations personnel in these safe areas, redeployment is a viable option to minimize that threat. As for paragraph 52 of the Secretary-General's report, the Working Group believes that the liaison purposes of some United Nations personnel is of second priority to their safety and of the implementation of the safe area mandate.

As for the exclusion zones, again the mandate is clear. It should be recalled that the exclusion zone and weapons collections points were set up as an alternative to air strikes; however, if weapons collections points, in the context of reprisals against United Nations personnel, become an obstacle in implementing the exclusion zones, then these points should be abandoned and the weapons within them neutralized by air power to the fullest extent possible. In this context, when an offending weapon cannot be located, other targets, under the principle of "judicious response", should be targeted as a means towards compliance.

As for the options presented by the Secretary-General in paragraph 72 of his report, the Working Group believes that a combination of some of the elements contained therein that will strengthen UNPROFOR and thereby enable it to discharge its mandate effectively would be desirable. While not provided as an option, the Secretary-General states in paragraph 5 that UNPROFOR's "existing mandate and/or the way in which it implements that mandate should be adapted". In light of this, the Working Group is of the view that the existing mandate is appropriate, but the means to and by which it is implemented need to be adapted. Towards this end, the Working Group makes the following proposals.

First and foremost, UNPROFOR personnel must be increased and strengthened and provided with better equipment. The OIC countries have made numerous offers of troops and equipment. These offers, in the interests of Bosnia and Herzegovina's civilian population and the safety of UNPROFOR, should be accepted.

The Working Group advocates the removal of monitors from the safe areas, as they are potential hostages of the Pale Serbs, thus stifling the implementation of the mandate, and further advocates the deployment of UNPROFOR in larger numbers to improve their self-defence capabilities.

The Working Group advocates the establishment of land corridors for humanitarian aid, and believes that UNPROFOR deployment in larger numbers can secure and facilitate the establishment of these corridors. Also, air drops to besieged populations have proven successful in the past, and must be kept in foremost consideration as a means to relieve the suffering of the besieged populations.

The surface-to-air missile systems deployed by the Pale Serbs must be neutralized, if necessary, by the use of force.

Where cooperation is lacking from the relevant elements, the mandate must be implemented robustly to compel future cooperation and to maintain the credibility and dignity of the mission in the Republic of Bosnia and Herzegovina.

Along these lines, the Working Group welcomes the initiative of establishing a rapid reaction force, under the command and control of the United Nations, to assist UNPROFOR in the implementation of its mandate, especially the protection of the safe areas and the civilian population of the Republic of Bosnia and Herzegovina.

The Working Group reiterates its position concerning the arms embargo on the Republic of Bosnia and Herzegovina.

UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/49/919
S/1995/480
13 June 1995
ENGLISH
ORIGINAL: RUSSIAN

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 39
THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Fiftieth year

Letter dated 12 June 1995 from the Permanent Representative of Kazakstan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a statement by the Ministry of Foreign Affairs of the Republic of Kazakstan concerning the situation in Bosnia and Herzegovina (see annex).

I should be grateful if the text of this letter and the annex to it were circulated as an official document of the forty-ninth session of the General Assembly, under agenda item 39, and also of the Security Council.

(Signed) Akmaral Kh. ARYSTANBEKOVA
Ambassador
Permanent Representative of the Republic
of Kazakstan to the United Nations

95-17600 (E) 130695 130695 140695

/...

ANNEX

Statement by the Ministry of Foreign Affairs of Kazakstan
dated 12 June 1995

The Ministry of Foreign Affairs of the Republic of Kazakstan expresses concern in connection with the deterioration of the situation in Bosnia and Herzegovina. It is regrettable that the actions by the Bosnian Serbs are making it impossible to carry out the mandate of the United Nations Protection Force (UNPROFOR) with regard to the safe areas, freedom of movement, the delivery of emergency humanitarian assistance and the security of United Nations personnel.

Kazakstan believes that it is necessary to extend the period of validity of the agreement on halting military operations and also advocates the mutual recognition of the States of the former Yugoslavia.

The Ministry of Foreign Affairs considers that it is important to continue multilateral diplomatic efforts in order to halt the escalation in fighting in the region and enhance the effectiveness of the United Nations peace-keeping mission.